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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,875	07/16/2001	Takamitsu Asanuma	110108	1757

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OLIFF & BERRIDGE, PLC  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

EXAMINER
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NGUYEN, TU MINH

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/904,875

Applicant(s)

ASANUMA ET AL.

Examiner

Tu M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 042505.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. An Applicant's Request for Reconsideration filed on May 11, 2005 has been entered.

Overall, claims 2-4 are pending in the application.

### ***Drawings***

2. The formal drawings filed on November 25, 2003 have been approved for entry.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dou et al. (U.S. Patent Application Publication 2001/0035006) in view of Hirota et al. (Japan Publication 6-159037).

Re claim 2, as depicted in Figure 17, Dou et al. disclose a device for purifying the exhaust gas of an internal combustion engine, comprising:

- a particulate filter (6) arranged in the exhaust system (see claim 10);

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- a NOx adsorber (4) carries a catalyst for absorbing and reducing NOx, the catalyst absorbing NOx when the air-fuel ratio in the surrounding atmosphere thereof is lean and releasing the absorbed NOx to purify NOx by reduction when the air-fuel ratio is stoichiometric or rich;

- a catalytic apparatus (3) for purifying NOx arranged in the exhaust system upstream of the particulate filter, which catalytic apparatus carries a catalyst (noble metals, barium) absorbing NOx when the air-fuel ratio in the surrounding atmosphere thereof is lean and releasing the absorbed NOx when said air-fuel ratio is stoichiometric or rich (see paragraphs 0039, 0041, and 0042); and

- bypassing means (5A) to make possible the exhaust gas bypass the NOx adsorber and the particulate filter located downstream of the catalytic apparatus (3).

Dou et al., however, fail to disclose that the particulate filter and the NOx absorber can be combined into one single housing.

As shown in Figures 1 and 2, Hirota et al. teach that it is conventional in the art to use a catalyzed particulate filter (10) which carries a NOx absorber (26) for absorbing and reducing NOx. As clearly illustrated in Figure 2, the catalyzed particulate filter is a wall-flow device comprising a plurality of partition walls having pores, the partition walls carrying a NOx absorber (26) on the exhaust gas upstream side surface for absorbing and reducing NOx. A controller in Hirota et al. makes the air-fuel ratio in the catalyzed particulate filter rich to release NOx and active-oxygen from the NOx absorber to purify the released NOx by reduction, and to oxidize the particulates trapped on the filter by the released active-oxygen. As indicated in the translated Abstract, the heating in the NOx releasing and reduction causes elevated temperature

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in the filter, which induces the trapped soot to ignite easily. It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have replaced the NO<sub>x</sub> absorber and the particulate filter in Dou et al. with the catalyzed particulate filter taught by Hirota et al., since the application thereof would have saved fuel by inducing soot to combust at an earlier time.

Re claim 3, in the modified device of Dou et al., the catalytic apparatus (3) carries the catalyst (noble metals, barium) for absorbing and reducing NO<sub>x</sub>, and during the recovery process of the SO<sub>x</sub> pollution of the catalytic apparatus, the bypassing means (5A) makes the exhaust gas bypass the catalyzed particulate filter (see the last 8 lines of paragraph 0062).

Re claim 4, in the modified device of Dou et al., the catalytic apparatus (3) carries the catalyst (noble metals, barium) for absorbing and reducing NO<sub>x</sub>, and immediately after the finishing of the recovery process of the SO<sub>x</sub> pollution of the catalytic apparatus, the bypassing means (5A) does not make the exhaust gas bypass the catalyzed particulate filter and thus the exhaust gas passes through the catalyzed particulate filter.

### ***Response to Arguments***

5. Applicant's arguments with respect to the references applied in the previous Office Action have been fully considered but they are not persuasive.

In response to applicant's argument that Dou et al. fail to disclose or suggest a particulate filter or a catalytic apparatus for purifying NO<sub>x</sub> (pages 2-3 of Applicant's Request for Reconsideration), the examiner respectfully disagrees.

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With regard to a particulate filter, as shown in Figure 17, Dou et al. disclose a device for purifying the exhaust gas of an internal combustion engine, comprising a NOx adsorber (4) and a device numbered (6) located upstream of the NOx adsorber. The examiner hereby declares that he is the examiner of record for the U.S. Patent Application Publication 2001/0035006 by Dou et al. During the examination of this patent application, device (6) has been confirmed by Dou et al. as a particulate filter. Moreover, according to claim 10 of the patent application by Dou et al., there exists a particulate filter at a location upstream of the NOx adsorber.

With regard to a catalytic apparatus for purifying NOx, paragraph 0042 in Dou et al. reads “*Not to be bound by theory, platinum generally enhances palladium-based light off functions by facilitating nitrogen oxide (NO) to nitrogen dioxide (NO<sub>2</sub>) and sulfur dioxide (SO<sub>2</sub>) to sulfite (SO<sub>3</sub>) oxidation, thereby improving both NOx and sulfur oxides (SOx) trapping efficiencies. Rhodium, located on the sulfur trap surface, enhances NOx reduction, both at stoichiometry and during lean to rich modulations and also promotes high steady state hydrocarbon conversions. Accordingly, a tri-metallic formulation is preferred to provide effective storing of NOx (to the extent that it occurs in the sulfur trap) and SOx and for converting stored NOx during lean to rich modulations” (emphasis added by examiner). Thus, the sulfur trap in Dou et al. also has a function to adsorb or store NOx in the exhaust gas and to convert or reduce the stored NOx during lean to rich modulations. In other words, Dou et al. disclose or at least suggests a catalytic apparatus (3) for purifying NOx arranged in the exhaust system upstream of the particulate filter (6), which catalytic apparatus carries a catalyst (noble metals, barium) absorbing NOx when the air-fuel ratio in the surrounding atmosphere thereof is lean and releasing the absorbed NOx when said air-fuel ratio is stoichiometric or rich.*

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In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as shown above, Dou et al. indeed have a particulate filter (6) and the examiner utilizes a secondary reference by Hirota et al. to teach that it is conventional in the art to use a catalyzed particulate filter which carries a NO<sub>x</sub> absorber in the same housing for absorbing and reducing NO<sub>x</sub>.

### *Conclusion*

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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*Prior Art*

7. The IDS (PTO-1449) filed on April 25, 2005 has been considered. An initialized copy is attached hereto.

*Communication*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Tu M. Nguyen*

TMN

May 25, 2005

Tu M. Nguyen

Primary Examiner

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